

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7512

BILL NUMBER: HB 1593

NOTE PREPARED: Jan 13, 2003

BILL AMENDED:

SUBJECT: Adoption Tax Credits.

FIRST AUTHOR: Rep. Avery

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State

Summary of Legislation: The bill provides a credit against Adjusted Gross Income (AGI) Tax for qualified adoption expenses paid or incurred by a taxpayer who adopts a child. The bill provides that the credit does not apply to expenses incurred for stepparent adoptions or surrogate parenting arrangements or to expenses paid or reimbursed through an employer program or otherwise. It provides that the amount of the credit for each child adopted is the lesser of \$5,000 or the total of the qualified adoption expenses for the child. The bill also provides a credit against Adjusted Gross Income (AGI) Tax for qualified adoption expenses paid or incurred by a taxpayer who adopts a special needs child. It also provides that the amount of the credit for each special needs child adopted is the lesser of \$6,000 or the total of the qualified adoption expenses for the child.

Effective Date: January 1, 2004.

Explanation of State Expenditures: The Department of State Revenue (DOR) would incur some administrative expenses relating to the revision of tax forms, instructions, and computer programs to incorporate these tax credits. These expenses presumably could be absorbed given the DOR's existing budget and resources.

Explanation of State Revenues: The bill would reduce state Adjusted Gross Income (AGI) Tax liabilities of individual taxpayers who incur qualified adoption-related expenses. Assuming all eligible taxpayers claim the maximum credit amount, the revenue loss due to this bill could potentially total \$10.5 M to \$11.0 M in FY 2005. The upper range could potentially increase by 1% to 1.4% annually thereafter. The fiscal impact could potentially be diminished to the extent that qualified adoption expenses of taxpayers are paid by a federal, state, or local program; or if the taxpayer claims a tax credit or deduction for the expenses under

another state law. However, the carryover provisions for the tax credits may increase the impact of the bill in future years. Taxpayers claiming these credits may be unable to exhaust them in the first year. The tax credits are not refundable and can not be carried back. But they may be carried over to reduce the taxpayer's liability in subsequent years.

Background: The bill establishes AGI Tax credits for adoption expenses incurred in a taxable year in connection with regular and special needs adoptions. The Child Adoption Tax Credit is a nonrefundable tax credit equal to the lesser of a taxpayer's adoption-related expenses or \$5,000. The Special Needs Child Adoption Tax Credit also is nonrefundable, but the maximum allowable credit is \$6,000. The bill allows a taxpayer to claim credits for adoption related expenses incurred in a year subsequent to the taxable year in which the adoption occurred. However, the credit amount the taxpayer may claim for these subsequent expenses cannot exceed the maximum credit amount (\$5,000 for regular adoptions and \$6,000 for special needs adoptions) minus the credit amount claimed by the taxpayer in the year in which the adoption occurred.

Neither credit is allowed for expenses: (1) incurred for the adoption of a child by the child's stepparent; (2) incurred in carrying out a surrogate parenting arrangement; or (3) paid under an employer provided adoption assistance program. In addition, neither credit is allowed (1) to the extent that adoption expenses are paid by a federal, state, or local program; or (2) if the taxpayer claims a tax credit or deduction for the expenses under another state law. Thus, the bill permits the taxpayer to access fully both the state Adoption Tax Credit and the Federal Adoption Tax Credit. If the amount of either credit exceeds the taxpayer's liability, the excess credit may be carried forward for up to five subsequent years. A taxpayer is not entitled to a carryback or a refund of any unused credit.

Since the tax credits are effective beginning in tax year 2004, the fiscal impact would begin in FY 2005. Eighty six percent of the revenue from the AGI Tax on individuals is deposited in the state General Fund, and 14% of this revenue is deposited in the Property Tax Replacement Fund.

The National Adoption Information Clearinghouse indicates that adoption filings in Indiana averaged around 3,300 from 1988 to 1997. Research by Fango and Fango (1995) suggests that about 42% of adoptions involve a stepparent and, thus, would be ineligible for the credit. Assuming about 1% annual growth in adoption filings (based on more recent trends), credit eligible adoptions are estimated to range from 1,900 to 2,000 in 2004. Based on information from the Division of Family and Children, about 900 of these could be eligible for the Special Needs Adoption Tax Credit. It is assumed that eligible taxpayers will be able to claim the maximum credit amount. This is based on federal tax data from 1997 and 1998. This data indicates that the average adoption expense eligible for the federal tax credit exceeded \$6,000 in 1998, and grew by 5.8% from 1997 to 1998. This suggests that the average eligible adoption expense could equal or exceed \$9,000 when this credit goes into effect in 2004.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue.

Local Agencies Affected:

Information Sources: Amy Brown, FSSA, (317) 232-1149; Sandy Byberg & Chuck Hicks, Statistics of

Income Division, U. S. Internal Revenue Service, (202) 874-0453; 2002 *U.S. Master Tax Guide*, Commerce Clearing House; National Adoption Information Clearinghouse, *Filing Trends in Adoption, 1988 to 1997*; U.S. Department of the Treasury, *Report to the Congress on Tax Benefits for Adoption*, October 2000.

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